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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,899	09/19/2001	Michio Toriumi	Y&A-127	2960

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EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/07/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

AS 6

Office Action Summary

Application No.

09/936899

Applicant(s)

Toriami

Examiner

John Guarriello

Group Art Unit

1991

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 2, 4-6, 9-24 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 2, 4-6, 9-24 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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DETAILED ACTION

15. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

16. Claims 1, 9-11, 15, 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claim 1 recites physical properties of a spunbonded non-woven fabric made of fibers which comprise polypropylene resin (fiber fineness, average friction factor, thickness uniformity, waterproof performance, and gas permeability). Ex Parte Slob, 157 USPQ 172, states the following with regard to an article claimed by defining property values:

Claims merely setting forth physical characteristics desired in an article, and not setting forth specific compositions which would meet such characteristics, are invalid as vague, indefinite, and functional since they cover any conceivable combination of ingredients either presently existing or which might be discovered in future and which would impart desired characteristics;

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thus, the expression “a liquefiable substance having a liquefaction temperature from about 40 degrees Centigrade to about 300 degrees C and being compatible with the ingredients in the powdered detergent composition” is too broad and indefinite since it purports to cover everything which will perform the desired functions regardless of its composition, and, in effect, recites compounds by what it is desired that they do rather than what they are; the expression also is too broad since it appears to read upon materials that could not possibly be used to accomplish purposes intended.

Thus, claims 1, 9-11, 15, 16 are indefinite for reciting only the desired physical properties of the spunbonded non-woven fabric, rather than setting forth structural and/or chemical characteristics of said spunbonded non-woven fabric.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 1, 9-11, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stahl et al. 5,736,465.

Stahl describes fabric made from novel polypropylene fibers by single site catalysis which are finer fibers than traditional spunbonded or meltblown, (see abstract; column 5, lines 34-53; column 6, lines 1-5). Stahl describes MWD in the range of 1.0 to about 3.5, (column 8, lines 59-67). Stahl describes fabrics made from these fibers, since the fibers have comparatively small diameter, to display better hand and are more drapeable, (column 9, lines 13-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the properties of Stahl motivated with the expectation that since Stahl describes the basic polypropylene resin with overlapping range of MWD, molecular weight distribution, then it has been

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held that discovering an optimum value involves only routine skill in the art, In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

19. Claims 2, 4-6, 12-14, 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stahl et al. 5,736,465 in view of JP-11-012400.

Stahl describes polypropylene fibers and their fabrics made by single site catalysis as above in paragraph # 18 above. Stahl differs from the claimed invention because it is silent about a lubricant.

JP'400 describes polypropylene composition made by single site catalysis for nonwoven fabrics with a lubricant fluoride vinylidene hexafluoropolymer copolymer in the amount of 0.01 to 0.08% of the weight, which weight overlaps that of the claimed invention.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the lubricant of JP'400 in the polypropylene fabric fibers of Stahl motivated with the expectation that improved performance, as noted in Stahl column 9, lines 1-47, and properties of waterproofness would be enhanced.

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20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

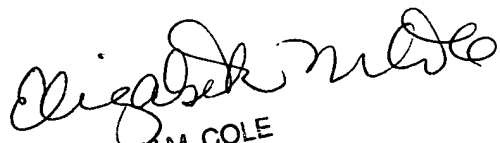
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

June 25, 2003



ELIZABETH M. COLE
PRIMARY EXAMINER